

REMARKS

This application has been amended in a manner that applicants believe places it in condition for allowance at the time of the next Official Action.

Claims 7, 10, 11, 13-15, 19-21, 30, 31, 34, 35, and 64 are pending in the present application. Claims 19-21, 30, 31, 34, 35 and 64 have been amended. Applicants note with appreciation the allowance of claims 7, 10, 11 and 13-15. Support for the amended claims may be found generally throughout the present specification and in the original claims. Claim 65 has been canceled.

In the outstanding Official Action, claims 19-21, 30-31, 34-35 and 64-65 were rejected under 35 USC 112, first paragraph, for allegedly not satisfying the enablement requirement. Applicants believe that the present amendment obviates this rejection.

In imposing the rejection, the Official Action alleged that the present disclosure does not reasonably provide enablement for a pharmaceutical composition comprising a peptide compound comprising an amino acid of SEQ ID No. 1 or 2; a pharmaceutical composition comprising nucleotides encoding an amino acid sequence of SEQ ID No. 1 or 2; or any methods of *in vivo* systemic immunization of the peptide compound.

However, applicants note that claims 19-21, 30-31 and 64 have been amended to broadly recite a composition. As a result, applicants believe that the issues raised in the Official Action have been obviated in regards to these claims.

As to the claimed method, the Official Action alleged that the working examples are limited to *in vitro* methods and do not teach one skilled in the art how to practice the claimed method of systemic immunization in view of the disclosure.

However, claims 34 and 35 have been amended. Claim 34 recites a method for treating tumors. Claim 35 recites a method for treating a patient having renal carcinoma.

Applicants believe that claims 34 and 35 are enabled by the present disclosure. Indeed, the present specification clearly teaches that the claimed peptides can be used to treat tumors beginning on page 14, line 9 in the present specification. Moreover, while the Official Action cites to several references that discuss the general complexities of an *in vivo* environment as compared to an *in vitro* environment, none of the references specifically discuss the renal carcinoma cell lines as set forth in the present disclosure. In particular, applicant's note that

claims 35 is directed to a method for treating renal carcinoma in a patient.

Indeed, at this time, the Examiner is respectfully reminded that it is a well founded principle that any assertion by the Patent Office that the enabling disclosure is not commensurate in scope with the protection sought must be supported by evidence or reasoning substantiating the doubt so expressed. As a matter of law, the expressed teaching of the patent specification cannot be controverted by mere speculation and unsupported assertions on the part of the Patent Office. As stated by the Court of Customs and Patent Appeals in the case of *In re Dinh-Nguyen and Stanhagen*, 181 USPQ 46 (CCPA 1974):

Any assertion by the Patent Office that the enabling disclosure is not commensurate in scope with the protection sought must be supported by evidence or reasoning substantiating the doubt so expressed. 181 USPQ at 47.

Such a standard must be applied with great care when the Examiner's conjecture is contrary to the teachings of the specification. When reviewing the Examiner's position on this point, it is apparent that no evidence is adduced that is in any way inconsistent with the teaching of the specification.

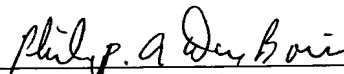
Thus, applicants believe that the present amendment obviates this rejection.

In view of the present amendment and the foregoing remarks, therefore, applicants believe that this application is in condition for allowance, with claims 7, 10, 11, 13-15, 19-21, 30, 31, 34, 35 and 64, as presented. Allowance and passage to issue on this basis is respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

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